THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.No.7095 of 2006

Dt.17.4.2006

Between:

Pamarthi Anjan Rao … Petitioner

And

The Nagara Panchayat Sathupally,

Rep. By its Commissioner,

Sathupally, Khammam District

…Respondent

ORDER:

Petitioner seeks writ of mandamus declaring the proceedings issued by the respondent in Rc.No.Court/2006, dt.17.3.2006, as illegal and arbitrary and consequently demarcate 16 feet road situated at Ayyagaripet, Ambetkarnagar Street, Sathupally (V&M), Khammam District, as per the directions issued in S.A.No.347 of 2004, dt.10.2.2005.

Petitioner questions the impugned letter addressed by the Commissioner, Nagara Panchayath Sathupally, in Rc.No.Court/2006, dated 17.3.2006, which reads as follows:

OFFICE OF NAGARA PANCHAYAT, SATHUPALLI

Rc.No.Court/2006 Dated: 17.3.2006

From:

B.Suman Rao,

Comissioner,

Nagara Panchayat,

Sathupally.

To

1. Sri Pamarthy Anjan Rao s/o.Narasimham

   DCC Bank, TSR Road, Gandhi Chowk, Khammam.

2. Sri Tumburi RamaRao s/o.Subbaiah

   Tumburu Rama Rao Veedhi,

Sathupalli Nagara Panchayat, Sathupalli Mandal,

Khammam District.

3. Sri Narukulla Mohan Rao s/o.Appaiah

   R/o.Kistaram Village, Sathupalli Mandalam,

   Khammam District.

Esteemed Sir,

Sub: Implementation of judgment of Honourable High Court of Andhra Pradesh in S.A.No.347/2004 dated 10.2.2005 passed in the matter of T.Rama Rao and another as appellants. P.Anjan Rao and Gramapanchayat, Sathupalli as respondent.

…

You No.1 made an application dated 10.10.2005 by registered post with acknowledgement due to the Commissioner, Nagara Panchayat, Sathupalli and

furnished a copy of judgment in S.A.No.347/2004 and report of advocate commissioner by requesting the office either for grant of new construction permission for the renewal of earlier construction permission granted by the Grama panchayat Sathupalli. Consequently on 17.3.2006 we issued notices to you No.1 to you No.3 requiring to produce all relevant documentary evidence before the office on 31.3.2006 to enable us to finalise the matter but none of you appeared and no documents were produced. On perusal of judgment of their lordship Justice E.Dharma Rao of Honourable High Court of Andhra Pradesh in S.A.No.347/2004 there is a direction to the Secretary, Grama panchayat, Sathupalli for demarcation of the suit schedule property leaving some margin to the compound wall of defendants No.1 and 2 in the suit.

Through G.O.Ms.No.584 dated 9.6.2005 the Government of Andhra Pradesh constituted Nagara Panchayat Sathupalli in the place of Grama panchayat, Sathupalli and there is neither Secretary nor Grama Panchayat in existence to implement judgment of honourable High Court of Andhra Pradesh. Therefore, I inform you all that I cannot implement judgment of honourable High Court in Second Appeal No.387/2004 without specific direction to the Commissioner, Nagara Panchayat, Sathupalli. Therefore, I inform you all to obtain suitable orders from honourable High Court by presenting the facts and charged circumstances.

Sd/-Commissioner,

Nagara Panchayat, Satthupalli.

It is evident from the said letter that this Court in S.A.No.347 of 2004, dated 10.2.2005, to which the Gram Panchayat, Sathupalli, represented by its Executive Officer is a party, directed the Secretary, Grampanchayat, Sathupally, to demarcate the 16 feet road after leaving some margin from the side of the compound wall of the appellants-defendants 1 and 2 and allow the 1st respondent-plaintiff to make his own construction in the remaining area of site as per the permission granted by the Grampanchayat, Sathupalli.

Heard the learned counsel for the petitioner as well as the learned standing counsel on behalf of the respondent.

I am of the opinion that when the said Gram panchayat has been upgraded as Nagara Panchayat, the Commissioner of Nagara Panchayat Sathupally, being the successor in interest, is under obligation to implement the directions of this Court in S.A.No.347 of 2004, dated 10.2.2005. Merely because the Sathupally Gram Panchayat has been upgraded and as there is no Secretary for the

said Gram Panchayat, it cannot be said that the Commissioner, Nagara Panchayat, Sathupally cannot implement the said orders of this Court. Accordingly, the respondent is directed to implement the judgment of this Court in S.A.No.347 of 2004, dated 10.2.2005.

The writ petition is disposed of accordingly. No costs.

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V.ESWARAIAH, J.

17.4.2006

kpr